

Environmental Protection Agency

§ 279.45

oil discharge no longer presents a hazard to human health or the environment.

[57 FR 41612, Sept. 10, 1992, as amended at 58 FR 26425, May 3, 1993]

§ 279.44 Rebuttable presumption for used oil.

(a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of § 279.10(b)(1)(ii), the used oil transporter must determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below 1,000 ppm.

(b) The transporter must make this determination by:

(1) Testing the used oil; or

(2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in subpart D of part 261 of this chapter. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of part 261 of this chapter). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in § 279.24(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFC are destined for reclamation. The rebuttable presumption does apply to

used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(d) *Record retention.* Records of analyses conducted or information used to comply with paragraphs (a), (b), and (c) of this section must be maintained by the transporter for at least 3 years.

[57 FR 41612, Sept. 10, 1992, as amended at 59 FR 10560, Mar. 4, 1994]

§ 279.45 Used oil storage at transfer facilities.

Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of this subpart. Used oil transporters are also subject to the Underground Storage Tank (40 CFR part 280) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(a) *Applicability.* This section applies to used oil transfer facilities. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under subpart F of this chapter.

(b) *Storage units.* Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under parts 264 or 265 of this chapter.

(c) *Condition of units.* Containers and aboveground tanks used to store used oil at transfer facilities must be:

(1) In good condition (no severe rusting, apparent structural defects or deterioration); and

(2) Not leaking (no visible leaks).

(d) *Secondary containment for containers.* Containers used to store used oil at transfer facilities must be equipped with a secondary containment system.

(1) The secondary containment system must consist of, at a minimum: